IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

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Jyoti L.Meena Vs. State and anr.

S.B. CRIMINAL MISC.PETITION NO.572/1998
u/S. 482 Cr.P.C.

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Date of Order:- **29/8/2006.**

P R E S E N T
HON'BLE MR.JUSTICE HARBANS LAL

Mr. V.R. Bajwa with
Mr. V.P. Bishnoi for the accused-petitioner.
Mr. Arun Sharma P.P. for the State.
Mr. A.K. Sharma for complainant-respondent No.2.

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BY THE COURT:-

The instant petition under Section 482 Cr.P.C. seeks quashing of the order dated 20/3/1998 passed by the learned Additional Sessions Judge Hindaun city in Sessions Case No.23/1997 whereby the charge for offence punishable under Section 306 IPC has been ordered to be framed against the accused-petitioner.

2) The relevant facts giving rise to this petition and necessary for its decision are that late Shri L.C. Meena was married to Rekha daughter of complainant non-petitioner No.2 Shri Samotilal Meena. Their marriage was dissolved by a mutual consent by

decree of divorce on 20/12/1988. Even prior to the decree of dissolution of marriage by the court they had mutually agreed to dissolve their marriage in the Panchayat of the Meena community on 13/2/1988. After dissolution of the marriage, late Shri L.C. Meena remarried the present petitioner. The couple was blessed with a son. Smt.Rekha the previous wife of late Shri L.C. Meena committed suicide on 18/10/1990 by jumping into a well with her daughter Poonam aged about 3 years as a result of which Poonam died of drowning. One Kishorilal, the uncle of late Shri L.C. Meena submitted a written report on 18/10/1990 at PS Mahaveerji. An FIR No.3/1990 came to be registered on its basis but complainant non-petitioner No.2 Shri Samotilal Meena lodged another FIR No.92/1990 with the allegation that accused including the present petitioner had committed murder of Smt.Rekha. After thorough investigation into these two cases simultaneously the police filed final report on 31/12/1990. On 26/10/1995 the learned Magistrate rejected the final report and passed orders taking cognizance against the present petitioner along with her husband L.C. Meena and her father-in-law Omkarmal for offence punishable under Section 306 IPC. A revision was preferred against the said order but the same was dismissed with the observation that the order taking cognizance was an interlocutory order and the accused persons may challenge the order by way of petition under Section 482 Cr.P.C. As such,

S.B.Cr.Misc.Petition No.319/2006 came to be registered in this Court which was also disposed of on 1/11/1996 with the observation that the accused persons should first of all make their submissions before the learned trial court at the stage of the framing of the charges. The accused petitioner surrendered herself before the court of learned A.C.J.M. Hindaun on 10/1/1997. Thereafter, the case was committed for trial to the court of learned Additional Sessions Judge Hindaun. Shri L.C. Meena died in the meanwhile in a road accident. The learned trial court framed charge under Section 306 IPC against the petitioner and Omkarmal Meena which is under challenge in this petition.

3) Learned counsel for the petitioner has contended that on the facts as alleged in the FIR and the materials collected during the investigation there is absolutely no direct or circumstantial evidence showing that the petitioner has in any way abetted or instigated the offence of committing suicide. She was living in Delhi on the date Mst.Rekha committed suicide. The marriage had been dissolved amicably and remarriage had also been solemnized long before this incident. There is no allegation in the FIR lodged by non-petitioner No.2 that the petitioner in any way abetted the commission of alleged offence.

4) He has in this regard referred to the cases in **Netai Dutta Vs. State of West Bengal :JT 2005(3) SC 46**, **Satveer Singh & Anr. Vs. State of Rajasthan : 2003(1) Cr.L.R. (Raj.) 231**, **Sanju @ Sanjay Singh Sengar Vs. State of Madhya Pradesh :2002(1) Supreme To-day(Cr.) 453** and **Raj Kumar Vs. State of Punjab : 1983(1) Chandigarh Law Reports 660**. He has further submitted that even in the order taking cognizance it is not mentioned that the accused-petitioner committed any abetment or instigation to commit suicide. The order of framing charge is cryptic and non speaking order without considering the submissions made by and on behalf of the accused-petitioner. The only reason mentioned in the order taking cognizance is that the deceased was forced to commit suicide because of the sautiya dah (because of the jealousy on account of the remarriage of deceased Shri L.C. Meena with the accused-petitioner).

5) Learned counsel for the complainant as well as the learned Public Prosecutor have supported the order of the learned court below.

6) I have carefully considered the respective submissions made at the bar and have also perused the record.

7) In *Netai Dutta Vs. State of West Bengal (supra)* according to the facts of the case there was

absolutely no averment in the alleged suicide note that the accused had caused any harm to deceased Pranab Kumar Nag or was in any way responsible for delay in paying his salary. It was noticed that the deceased was very much dissatisfied with the working conditions at his place and had never joined the office at Kolkata and absented himself for a period of 2 years after his transfer in 1999. He committed suicide on 16/2/2001. It was, therefore, held that it could not be said that the accused had in any way instigated the deceased to commit suicide. It was further held that it was a fit case where extraordinary powers under Section 482 Cr.P.C. were justified to be invoked and the criminal proceedings to be quashed because the criminal proceedings initiated against the accused would result only in sheer harassment to him without any fruitful result.

8) In the instant case also there being absolutely no allegation or material on record to infer even prima-facie that she did any wilful act or omission or intentionally aided the deceased by any act or illegal omission to commit suicide. It is not the case that she played any part or any role in the conspiracy which ultimately instigated or resulted in the commission of suicide by Mst.Rekha.

9) In *Satveer Singh & Anr. Vs. State of Rajasthan (supra)* the accused-petitioners were senior officials of the company and deceased was medical sales representative in the company. A suicide note showing that accused-petitioners misbehaved with the deceased in the meeting. Therefore, he committed suicide. The deceased committed suicide after 32 days of the meeting. The letter written by the accused-petitioners to the deceased after the meeting did not contain any threatening or abusive language so as to create any such tension which drove him to commit suicide. It was, therefore, held that the charge under Section 306 IPC was not even prima-facie made out and the same was set-aside.

10) In *Sanju @ Sanjay Singh Sengar Vs. State of Madhya Pradesh*(supra) the brother-in-law (jija) of the accused committed suicide on 27/7/1988 by hanging for quarrel of 25/7/1988 with the accused in which the accused was alleged to have told him “to go and die”. It was, therefore, held that these words could not amount to instigation to commit suicide. It was also held that the suicide by the deceased on 27/7/1988 is not proximate result of the quarrel that had taken place on 25/7/1988. The charge was, therefore, quashed.

11) In *Raj Kumar Vs. State of Punjab*(supra) Section 107 IPC has been discussed and interpreted. According to the interpretation, neither there is any instigation nor any criminal conspiracy nor intentionally aiding the deceased to do a thing amounting to abetment and the omission is also not illegal in the instant case. So, the necessary ingredients for offence under Section 306 IPC are not made out.

12) It is true as contended by the learned counsel for the complainant as well as learned Public Prosecutor for the State that at the stage of passing the order in terms of Section 227 of the Code, the Court has merely to peruse the evidence in order to find out whether or not there is a sufficient ground for proceeding against the accused. If upon consideration, the Court is satisfied that a prima-facie case is made out against the accused, the Judge must proceed to frame charge in terms of S.228 of the Code. Only in a case where it is shown that the evidence which the prosecution proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by defence evidence cannot show that the accused committed the crime, then and then alone the Court can discharge the accused. The Court is not required to enter into meticulous consideration of evidence and material placed before it at this stage.

At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. In this regard they have referred to the case of **Smt. Om Wati and another Vs. State : AIR 2001 SC 1507**. There is no quarrel with the aforementioned legal position but as has been pointed out above, the materials on record do not disclose even prima-facie the essential ingredients of offence under Section 306 IPC against the petitioner as the case does not fall in any one or more categories mentioned in Section 107 IPC.

15) In this view of the matter, therefore, even if the evidence sought to be proved against the accused-petitioner is accepted as true the necessary ingredients of the offence under Section 306 IPC having not been disclosed therefrom, the order of charge against her is clearly unsustainable and deserves to be set-aside.

In the result, this petition under Section 482 Cr.P.C. is allowed and the impugned-order dated 20/3/1998 passed by the learned Additional Sessions Judge, Hindaun City in Sessions Case No.23/1997 whereby charge for offence punishable under Section 306 IPC has been ordered to be framed against the petitioner is quashed and set-aside.

(HARBANS LAL), J.

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